IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.1086 of 1999

Between:

V.Sugunabhushana Rao, Ada Mine Owner, H.No.2-608-C, Old Bus Depot Road, Hanamkonda.

...PETITIONER

AND

1. Regional Labour Commissioner (Central) & Appellate Authority under Payment of Gratuity Act, 1992, Hyderabad.
2. Controlling Authority under PG Act, and Assistant Labour Commissioner (C), Mancherial.
3. Kotrange Shanker, S/o.Aboji, Yellaram Village, Asifabad Mandal, Adilabad District.
4. Podupu Ganty ashalu, S/o.Mondi, Yellaram Village, Asifabad Mandal, Adilabad District.
5. Kotrange Mond, S/o.Hanumanthu, Yellaram Village, Asifabad Mandal, Adilabad District.
6. Kotrange Nagu, S/o.Mahadu, Yellaram Village, Asifabad Mandal, Adilabad District.
7. Mondore Sadhu, S/o.Lahanu, Yellaram Village, Asifabad Mandal, Adilabad District.
8. Kotrange Keshav, S/o.Aboji, Yellaram Village, Asifabad Mandal, Adilabad District.
9. Kotrange Shanker, S/o.Hanumanthu, Yellaram Village, Asifabad Mandal,

Adilabad District.

10. Nikode Laxu, S/o.Pullaiah, Yellaram Village, Asifabad Mandal, Adilabad District.

11. Kotrange Pochchu, S/o.Mahadu, Yellaram Village, Asifabad Mandal, Adilabad District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction preferably one in the nature of the Writ of Mandamus and declare the order dated 30.11.1998 passed by the first respondent as null and void, illegal, arbitrary and unconstitutional and hence the same may be set aside and quash the same by issuance of a writ of Certiorari of any other appropriate order or orders or direction and to grant such other reliefs that the petitioner is entitled to under the circumstances of the case as otherwise the petitioner will be put to irreparable loss, damage and hardship.

Counsel for the Petitioner: MR.WILLIAM BURRA

Counsel for the Respondent Nos. 1 & 2: Mr. K.MANIK PRABHU (Addl. C.G.S.C.)

Counsel for the Respondent Nos. 3 to 11: Mr.T.BHEEMSEN & T.V.PRANAI KUMAR

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.1086 of 1999

ORDER:

Heard both sides.

The petitioner herein, which is a management, seeks to assail the impugned order dated 30.11.1998 passed by the Appellate Authority dismissing the appeal as against the decision of the Controlling Authority dated 23.12.1996 allowing the claim at the instance of respondent Nos.3 to 11 towards gratuity and the provisions of the Payment of Gratuity Act, 1972 ('the Act' for short).

The facts to be discussed in detail for disposal of this Writ Petition are that the petitioner has been running a mine and the contesting respondents claim to be working in the said mine, sufficiently, continuously for the purpose of their entitlement to the gratuity. Even though they have worked for a maximum period and also continuously, the petitioner did not pay the gratuity. Hence, the contesting respondents filed their claim. The said claim was contested by the petitioner before the Controlling Authority, denying the fact that they have worked for such a

continuous period of five years and in fact according to the petitioner, they worked long back and that too, not continuously for a period of five years so as to be eligible to the gratuity. During the enquiry, one Jadi Posham was examined in support of the contesting respondents, who stated that they have worked for a maximum period of six months per year. The said Jadi Posham also appears to be the Supervisor working on behalf of the petitioner. The petitioner had produced records to show that in fact the contesting respondents worked for a period from 01.06.1983 to 01.02.1984, 01.09.1990 to 31.10.1991 and 01.11.1995 to 31.01.1996 and therefore, they could not be entitled to any such claim.

Considering the material and evidence available on record, the Controlling Authority did not find favour with the petitioner and accepting the statement of the said Jadi Posham, allowed the claim. On appeal, the Appellate Authority agreed with the decision of the Controlling Authority and dismissed the same.

Learned counsel appearing on behalf of the petitioner strenuously contended that there is absolutely no record with the contesting respondents that they have worked for a continuous period of five years and above and therefore, the claim ought not have to be allowed.

Considering the same and also on perusal of the material, the question, which falls for consideration is whether the claim of the contesting respondents is sustainable in terms of the provisions of the Act?

The claim of the contenting respondents squarely rests on the fact that they worked continuously for more than five years and yet no gratuity has been paid. In support of

them, they examined one Jadi Posham, whose evidence has been accepted not only by the Controlling Authority, but also by the Appellate Authority as acceptable one. Though the petitioner sought to produce certain records, but however, the same were not accepted. In view of the concurrent finding, which purely based on facts and that too, on appreciation of the material available on record, it cannot be said that the findings arrived at by the authorities are in no way pervasive and are not liable to be set aside. Except placing reliance on the submissions made by the petitioner, no other submissions were made to show how the claim is not sustainable. In the circumstances, it is to be held that the authorities are right to allowing the claim of the contesting respondents. I do not find any merits in the Writ Petition.

Accordingly, the Writ Petition is dismissed.

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(B.PRAKASH RAO, J)

16th December 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Regional Labour Commissioner (Central) & Appellate Authority under Payment of Gratuity Act, 1992, Hyderabad.
2. The Controlling Authority under PG Act, and Assistant Labour Commissioner (C), Mancherial.
3. Two CD copies.